

JUDICIAL COUNCIL MEETING

Minutes

Monday, June 27th, 2011

Judicial Council Room

Matheson Courthouse

Salt Lake City, UT

Chief Justice Christine M. Durham, Presiding

ATTENDEES:

Chief Justice Christine M. Durham
Hon. Michael Westfall, vice chair
Justice Jill N. Parrish
Hon. Judith Atherton
Hon. Donald Eyre, Jr.
Hon. Kimberly K. Hornak
Hon. Paul Maughan
Hon. Brendan McCullagh
Hon. Gregory Orme
Hon. Larry Steele
Hon. Keith Stoney
Hon. Thomas Willmore
Lori Nelson, esq.

EXCUSED:

Hon. Jody Petry

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Jody Gonzales
Lisa-Michele Church
Debra Moore
Rick Schwermer
Tim Shea
Nancy Volmer
Diane Abegglen
Ron Bowmaster
Alyn Lunceford
Carol Price

GUESTS:

Hon. Thomas Higbee
Hon. Michele Christiansen
Hon. David Connors
Aaron Falk, SL Tribune

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Christine M. Durham)

Chief Justice Durham welcomed everyone to the meeting.

Motion: Judge Eyre moved to approve the minutes. Judge Hornak seconded the motion, and it passed unanimously.

2. CHAIR'S REPORT: (Chief Justice Christine M. Durham)

Chief Justice Durham reported on the following:

At the Appellate Conference held last week, Mr. Bowmaster provided a demonstration on a chambers management prototype that will allow for briefs and opinions to be prepared and viewed electronically.

3. ADMINISTRATOR'S REPORT: (Daniel J. Becker)

Mr. Becker reported on the following items:

He mentioned that Mr. Corrie Keller has been hired as the First District court executive to begin on July 14. Mr. Becker provided information on his background.

The Legislative audit on the *Operational Efficiencies of the Court System* has been completed. The report is scheduled to be reviewed at the July Audit Committee meeting. Details of the report will be presented to the Council at their July meeting.

Mr. Becker and Mr. Lunceford attended the Utah Association of Counties Conference in Moab on Friday, June 24. The group was interested in court security.

4. COMMITTEE REPORTS:

Management Committee Report:

Chief Justice Durham reported that the Management Committee meeting minutes accurately reflect the issues discussed. The items needing to be addressed by the Council have been placed on today's agenda.

Liaison Committee Report:

No June meeting was held.

Policy and Planning Meeting:

Judge Orme reported on the following:

The Policy and Planning meeting minutes accurately reflect the issues discussed and action taken by the Committee. The items needing to be addressed by the Council have been placed on the agenda to include: 1) Rules for Final Action, 2) Rules to be Published for Comment, and the Justice Court Audio Recording Standards. It was noted that Mr. Shea will continue working on Rule CJA 04-0202.02 - Records Classification in considering further amendments dealing with protected records in particular family law cases. This rule will be discussed further at a future Council meeting.

Bar Committee Report:

Ms. Nelson reported on the following:

The Bar Commission is scheduled to meet on Wednesday, July 6 in San Diego prior to the Annual Bar Convention. The last meeting was held in Provo with the Central Utah Bar Association.

The selection of the annual award recipients took place at the last meeting to include: 1) Lawyer of the Year, Robert Sykes; 2) Judge of the Year, Judge Benson; 3) Committee of the Year, Unauthorized Practice of Law Committee; and 4) Section of the Year, Elder Law Section and Young Lawyers Division as joint recipients. The Distinguished Lawyer Award will be presented to Mr. Lowry Snow at the Fall Forum.

Ms. Nancy Volmer introduced Mr. Aaron Falk of the Salt Lake Tribune who is replacing Mr. Stephen Hunt as the reporter providing court coverage.

5. RULES FOR FINAL ACTION: (Tim Shea)

Mr. Shea provided a summary on the rules being considered for final action.

CJA 01-0205 - Standing and Ad Hoc Committees. The amendment eliminates the Judicial Performance Evaluation Committee and makes the chairs of the subcommittees of the Judicial Outreach Committee members of the standing committee.

CJA 03-0109 - Ethics Advisory Committee. The amendment authorizes the committee to interpret statutes, rules, and case law to answer a request for an opinion.

CJA 03-0114 - Judicial Outreach. The amendment removes access issues from the committee's responsibility.

CJA 04-0403 - Signature Stamp Use. The amendment permits a clerk to use a judge's signature stamp for orders dismissing cases under URCP 3 and URCP 4(b), in addition to the existing authority to do so for dismissals under Rule 4-103.

CJA 06-0401 - Domestic Relations Commissioners. The amendments conform to proposed Rule of Civil Procedure 108.

CJA 06-0601 - Mental Health Commissioners. The amendments conform to proposed Rule of Civil Procedure 108.

He noted that if any issues arise before the November 1 implementation date pertaining to CJA 06-0401 and CJA 06-0601, a delay will be requested.

CJA 04-0202-02 - Records Classification. Further amendments to this rule are being considered.

Motion: Judge Orme moved to approve the rules for final action as recommended by the Policy and Planning Committee. Judge Atherton seconded the motion, and it passed unanimously.

6. STANDING COMMITTEE ON CHILDREN AND FAMILY LAW: (Judge Thomas Higbee and Ray Wahl)

Chief Justice Durham welcomed Judge Higbee to the meeting.

Judge Higbee provided an update to the Council on behalf of the Standing Committee on Children and Family Law.

He reminded the Council that discussion of the Committee sunseting took place a year ago, and the sunset decision was extended for a year.

Judge Higbee highlighted the following in his update: 1) membership of the committee, 2) the original charge to the committee including the suggested five reforms, 3) results of the original five reforms, 4) other achievements, 5) the present focus of the committee, 6) the four subcommittees, and 7) the sunset provisions.

He reported that the Adoption Subcommittee, at the request of the Council, is studying issues relating to concurrent jurisdiction for termination of parental rights. The goal is to make the process in juvenile court and district court similar.

Judge Higbee highlighted the following issues being addressed or that will be addressed by the Divorce Procedures Subcommittee: 1) what information is available on XChange, 2) child support modifications by motion, 3) standard restraining orders at first hearing, 4) Rule 108 draft being reviewed by district court judges, 5) Rule 101 time constraints, and 6) service issues. The length of time to finalize divorce proceedings is a concern. Mr. Becker mentioned that as the proposed time standards are being reviewed, it was found that the area most out of compliance deals with domestic cases. Discussion took place.

Judge Higbee reported that the Juvenile Court Jurisdiction Committee was formed to address the situation where an adult is charged with a crime that occurred when they were a juvenile.

Judge Higbee was thanked for his update.

Motion: Judge Orme moved to place the Standing Committee on Children and Family Law back on a six-year track for sunset review. Judge Eyre seconded the motion, and it passed unanimously.

7. JUSTICE COURT CORIS CONVERSION UPDATE: (Ron Bowmaster)

Mr. Bowmaster was welcomed to the meeting.

He updated the Council on the CORIS conversion in the justice courts which was to be completed by July 1, 2011.

The CORIS conversion of the justice courts was mandated by the passing of SB 72, 2008. The reasons for the conversion included: 1) unaddressed and unresolved audit exceptions and audit controls of existing application software; 2) inaccurate reporting to state information repositories including reports submitted to the Bureau of Criminal Identification; 3) a desire to access the courts record of individuals in all courts within the State of Utah through the use of a data warehouse or other means of record access; 4) a need to operate a computer system that better supports the requirements of the justice courts, including system support for improved court data and workflow; and 5) a need for better and more responsive support of the information needs of the judges and staff of the justice courts.

He highlighted the following relative to the conversion: 1) twenty-nine justice courts were using CORIS when the project began, 2) the legislature set a statutory three-year conversion deadline, 3) the court's IT staff converted a total of 102 justice courts, 4) from six different local computing systems, and 5) consolidated eight CORIS stand alone courts.

Mr. Bowmaster reported that 4.65 million cases were converted from local case management systems with an additional 633,000 cases added to CORIS annually.

Several CORIS functional enhancements were added as a result of needs identified during the conversion. The following were highlighted: 1) XChange case lookup combined district and justice court search, 2) electronic payments now used by 21 justice courts, and 3) 600 new users were added to CORIS.

To date, only one court, Duchesne County, remains to be converted to CORIS. Ongoing support, enhancements and additional training will continue.

Mr. Bowmaster expressed his gratitude to the staff and judges of the justice courts, the Board of Justice Court judges and the Court's IT Division staff for all they did to complete the CORIS conversion on time.

Judge McCullagh provided his perspective on the conversion project.

Mr. Bowmaster reported that 50% of citations and proceedings are being done electronically by justice courts.

Mr. Becker expressed his gratitude to the staff and judges of the justice courts and to the Court's IT staff on all they did to complete the CORIS conversion project in justice courts.

8. COURT COMMISSIONER CONDUCT COMMITTEE UPDATE: (Judge Michele Christiansen and Rick Schwermer)

Chief Justice Durham welcomed Judge Christiansen and Mr. Schwermer to the meeting.

Judge Christiansen provided an update to the Council on behalf of the Court Commissioner Conduct Committee.

She reported that the Committee reviews formal and informal complaints filed against the court commissioners. The Committee reviewed five formal complaints which were resolved

with no misconduct or violations being found. A letter was sent to the Chief Justice and respective presiding judge outlining the findings of the complaint. It was noted that the commissioner named in the complaint receives a copy of the complaint and the response.

Judge Christiansen was thanked for accepting the responsibility of Committee chair and for her update.

9. COURT FACILITIES PLANNING COMMITTEE UPDATE: (Judge L.A. Dever, Alyn Lunceford and Carol Price)

Mr. Lunceford and Ms. Price were welcomed to the meeting. Chief Justice Durham reported that Judge Dever asked to be excused as he was unable to attend.

Mr. Lunceford provided an update of the Court Facilities Planning Committee to the Council.

He highlighted Committee responsibilities as listed in Rule 3-409 to include: 1) review trends and projections in population, caseload, and other growth indicators to anticipate courthouse construction needs, 2) review the evaluations of courthouses required by this rule and recommend the prioritized placement of courthouse construction within the master plan, 3) review recommendations from the facility coordinator on construction projects and the master plan, 4) make recommendations to the Council regarding the reordering of master plan priorities and amendments to design and space guidelines, 5) compare construction requests with the Design and Space Guidelines of the master plan to ensure the current and anticipated needs of the court are met, 6) develop a timetable for construction requests so that the committee presents its recommendations to the Council in advance of the Annual Planning Workshop, 7) make recommendations to the Council for the approval, modification, or disapproval of construction requests, and 8) develop procedures for the delegation of committee responsibilities to the facility coordinator.

Mr. Lunceford highlighted the focus of several construction projects to include:

1) ADA access to court facilities for employees; 2) security for the court facilities; and 3) remodeling of clerical areas to facilitate the unification of juvenile and district court activities, cross-training, and related matters.

Mr. Lunceford reminded the Council that the ten-year plan includes capital development of both state-owned facilities and leased facilities. He reviewed the projects on the ten-year building plan. He highlighted the projects listed on the ten-year plan to include: 1) Ogden Juvenile Court, 2) Provo District expansion, 3) Cedar courts expansion, 4) Ogden District expansion, and 5) Davis courts expansion. He noted that the request for funding of a new Ogden Juvenile Court facility was not approved during the 2011 Legislative Session. The courts did receive \$6.4 million in funding for facilities projects in FY 2012, of which, \$3.9 million was funded for the purchase of the Farmington Court Facility.

He reviewed other projects under consideration with local government funding that impact the courts lease budget, and he reviewed the courts facilities projects for FY 2012.

Mr. Lunceford reported that the Design and Space Guidelines of the Master Plan are being updated to incorporate improvements and changes to court construction and technology from the past 10 years, and the proposed update will be reviewed by the Committee at their July meeting. The Guidelines will be presented to the Council at their August meeting.

Ms. Price provided an update of the Security and Emergency Preparedness Sub-Committee to the Council.

She highlighted the following Sub-Committee activities to include: 1) security reviews; 2) revision to Rule 3-414; 3) published brochures - Judicial Threat Checklist, and Court Security 101; and 4) development of online training.

Mr. Becker reported that the current Design Guidelines are over 10 years old, and it is time for the guidelines to be reviewed and updated to reflect current trends and technology.

He acknowledged the security audits as a positive development being undertaken by the courts. The audits ensure consistency across the state, and that the courts are benefitting from the security contracts in place. The objective of the audits is to further professionalize court security.

Ms. Price was asked if the training includes a separate section dealing with issues specific to juvenile court bailiffs. Discussion took place. Ms. Price stated that there was nothing specific to juvenile court, but she would discuss it further with the subcommittee at their next meeting. The Council suggested the possibility of a juvenile court judge participating on the subcommittee to provide insight to matters related to juvenile court.

Mr. Lunceford and Ms. Price were thanked for their update.

10. UNIFORM FINE AND BAIL COMMITTEE UPDATE: (Judge David Connors and Debra Moore)

Judge David Connors and Ms. Moore were welcomed.

Judge Connors provided an update of the Uniform Fine and Bail Committee to the Council. He mentioned that the Committee minutes from the June 3 meeting, the 2011 legislative changes and recommendations, and the proposed Uniform Fine/Bail Forfeiture Schedule were included in the Council materials for review.

He highlighted HB20 - Accident Responsibility Amendments. The Committee questioned the surcharge increase as listed in the amendments. He mentioned that there are reprogramming issues in CORIS relative to surcharges that will need to be addressed in the future. Last year, the surcharge was increased from 85% to 90%. Changes made to the Uniform Fine and Bail Schedule would update the table to conform with SB 217 by increasing all fines by 5% across the board. Discussion took place.

Ms. Moore mentioned that there are changes to the format and content of the Uniform Fine and Bail Schedule. All information is accessible to the justice courts, effective July 1, 2011, as they have all been converted to CORIS. A separate schedule will still be published.

A new transportation code has been added to the schedule to conform to Council decision to adopt a rule that will clarify for the county sheriffs the geographic scope of transportation of a person subject to an arrest warrant unless otherwise specified by the judge issuing the warrant. She noted that the rule change that would coincide with the coding has been postponed by Policy and Planning. The recommendation is to post the code prior to the rule change. Policy and Planning noted that this action was ok.

The question was asked as to whether CORIS would be fixed to accommodate future changes. Judge Connors mentioned that reprogramming questions were being addressed by the IT Department.

Judge Connors and Ms. Moore were thanked for their update.

Motion: Judge Stoney moved to approve the changes and recommendations as outlined by the Uniform Fine and Bail Committee. Judge Hornak seconded the motion, and it passed unanimously.

11. JUSTICE COURT AUDIO RECORDING STANDARDS: (Tim Shea)

Mr. Shea presented the recommendations of the Policy and Planning Committee on the amendment to Appendix B of the Code of Judicial Administration, Justice Court Standards for Recertification. An additional handout was distributed in reference to the amendment. The Board of Justice Court Judges and the Committee concur with the recommended standards.

The amendment will partially complete the requirement imposed in Section 78A-7-103(3), which was added by SB 318 during the FY 2011 Legislative Session. SB 318, with an effective date of July 1, 2012, the Judicial Council may only create or certify a justice court that records its proceedings with a digital audio recording device and maintains the audio recordings for a minimum of one year.

The question was asked as to whether an installation schedule has been prepared. Mr. Shea reported that installation of the recording device is the responsibility of the local government. Discussion took place.

The Management Committee approved the recommendation by the Board of Justice Court Judges to set aside \$174,359 of the Justice Court Technology Training and Security Grant to use towards outfitting the justice courts with required recording equipment. This amount will cover approximately half of the cost of outfitting all justice courts with recording equipment.

Corrections to the amendments were suggested. Mr. Shea noted the corrections.

Motion: Judge McCullagh moved to send the recommended standards out for comment. Judge Stoney seconded the motion, and it passed unanimously.

12. LEGISLATIVE UPDATE/INTERIM HIGHLIGHTS: (Rick Schwermer)

Mr. Schwermer provided an update of the June 15 2011 Legislative Interim meetings to the Council.

He highlighted the following areas of discussion: 1) Sex Offender Registry amendments, and 2) Judicial Performance Evaluation Commission (JPEC) proposal relative to evaluating justice court judges.

Sex Offender Registry amendments - Proposed legislation was discussed that would amend the Sex Offender and Kidnap Offender Registry requirements. Discussion took place.

Judicial Performance Evaluation Commission (JPEC) Proposal regarding justice courts. After discussion with the Board of Justice Court Judges on the proposal, it was determined that full-time justice court judges should be evaluated in the same manner as state judges. Judges not considered full-time, would use the evaluation system currently in place.

13. ADJOURN

The meeting was adjourned.